



Report to the Auburn City Council

Action Item	14
Agenda Item No.	
City Manager Approval	

To: Mayor and City Council Members
From: Jack Warren, Director of Public Works
Bernie Schroeder, Engineering Division Manager
Date: January 26, 2009
Subject: Wastewater Treatment Plant Mandatory Minimum Penalty

The Issue

Shall the City agree to the Administrative Civil Liability Complaint R5-2008-0599 and pay the penalty?

Conclusion and Recommendation

Staff recommends, BY MOTION, accept the Administrative Civil Liability Complaint R5-2008-0599 and pay the penalty.

Background

On November 10, 2008, the Central Valley Water Quality Control Board (Regional Board) issued an Administrative Civil Liability Complaint in the amount of \$60,000 for mandatory minimum penalties for effluent violations from the City's Wastewater Treatment Plant. The violations of effluent limitations are for residual chlorine, total chloroform organisms, pH, silver and turbidity that occurred at the WWTP from January 1, 2000 through April 30, 2008. The Public Works Department staff prepared a proposal to the Regional Board staff to apply \$30,000 of the fine towards a Supplemental Environmental Project (SEP). The SEP proposal consisted of an expanded Healthy Auburn Waters public outreach campaign and additional stormwater sampling along the ravines in Auburn. Staff received the attached letter from the Regional Board which states that a SEP project "...shall only consist of measures that go above and beyond the obligation of the discharge...[and]...the SEP shall not be an action, process or product that is otherwise required of the discharge by any rule or regulation of any entity." The Regional Board staff has concluded that the proposal that Auburn brought forth does not meet the requirements of a SEP project; Auburn can choose to submit a new proposal by February 6, 2009 to the Regional Board or the City needs to pay the penalty. Discussions with the Regional Board staff about submittal of another SEP have led City Staff to believe it is in the best interest of the rate payers to pay the fine rather than pursue other projects. As the Board Staff has explained the cost of SEP's often exceed the cost of the fine and are not administratively worthy of the efforts.

The City of Auburn in discussions with the operator of the plant, Ch2mHill – OMI, has determined that Ch2mHill will pay \$27,000 due to the contract between the two entities that is currently in place.

Alternatives Available to Council; Implications of Alternatives

1. Proceed with Staff Recommendation
2. Do not proceed with staff recommendation
3. Direct staff to prepare another SEP proposal

Fiscal Impact

The Administrative Civil Liability Complaint R5-2008-0599 amounts to \$60,000 in mandatory minimum penalties (MMP). Ch2mHill – OMI have agreed to pay \$27,000 which leaves the City of Auburn – Sewer Fund to pay \$33,000. These unfortunate mandatory fines were prudently anticipated and adequate funds exist in the sewer enterprise budget to cover these costs.



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

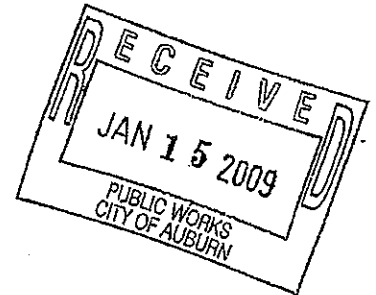
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Arnold
Schwarzenegger
Governor

14 January 2009

Mr. Jack Warren
Director of Public Works
City of Auburn
1225 Lincoln Way
Auburn, CA 95603



SUPPLEMENTAL ENVIRONMENTAL PROJECT PROPOSAL, ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0599, CITY OF AUBURN, PLACER COUNTY

On 10 November 2008, the Assistant Executive Officer of the Central Valley Water Board issued an Administrative Civil Liability Complaint in the amount of sixty thousand dollars (\$60,000) for Mandatory Minimum Penalties for effluent violations from the City of Auburn Wastewater Treatment Plant. On 16 December 2008, the City requested approval to apply \$30,000 of the penalties for the Healthy Auburn Waters (HAW) project as a supplemental Environmental Project (SEP). The HAW is a community outreach program focused on reducing or eliminating the discharge of many pollutants detected in the treated effluent at the wastewater treatment plant. The proposed SEP would be related to stormwater and treated wastewater discharge impacts on local streams. The proposed SEP would include tasks for "...stormwater sampling and analyses to evaluate the water quality of the stormwater run-off and determine any deficiencies in the storm drain collection system..." and would provide "targeted public education due to known water quality issues."

The *Water Quality Enforcement Policy* requires that "an SEP shall only consist of measures that go above and beyond the obligation of the discharger... [and] ...the SEP shall not be an action, process or product that is otherwise required of the discharger by any rule or regulation of any entity. The HAW does not comply with the *Water Quality Enforcement Policy* because the City of Auburn is required to perform activities such as these as part of its Municipal Separate Storm Sewer Systems (MS4) General Permit.

If the City still desires to propose an SEP meeting the criteria set forth in the *Water Quality Enforcement Policy*, please submit a new proposal to this office **by 6 February 2009**. The proposal must provide a specific project that would be funded with the money, how the project meets the qualification criteria in the *Water Quality Enforcement Policy*, and identifies deliverables and the budget, as described above. If we cannot approve a SEP proposal, we must require full payment of the ACL amount.

California Environmental Protection Agency

If you have any questions regarding this matter, please contact Barry Hilton at (916) 464-4762 or bhilton@waterboards.ca.gov.

A handwritten signature in cursive script that reads "Patricia Leary".

PATRICIA LEARY

Senior Engineer

NPDES Compliance and Enforcement Unit



CH2M HILL OMI
1239 Cameron Lane
Ripon, CA. 95366
Tel 209.815.5608
Fax 209.599.2955

January 16, 2009

Mr. Jack Warren
Director of Public Works
City of Auburn

Dear Mr. Warren:

As you are aware CH2M HILL OMI has been providing professional operational and maintenance services for the City of Auburn wastewater facilities since 1991. As your professional service provider we utilize training and systems to ensure that we manage and operate systems with the utmost of care. CH2M HILL OMI has built a reputation on our Company's professional operational abilities and one such item we focus on with the utmost of care and take very seriously is environmental compliance. The Company adheres to a policy of "Perfect Compliance and Perfect Reporting of Non-Compliance".

Unfortunately however, from time to time wastewater treatment systems can realize challenges with permit compliance due to a number of factors and changing conditions. The City of Auburn was given a Notice of Violation for effluent limitation violations from the wastewater treatment facility that occurred from January 1, 2000 to April 30, 2008 in a letter from the California Regional Water Quality Control Board (CRWQCB) dated August 22, 2008. Upon receipt of that letter CH2M HILL OMI went through a detailed review of the alleged violations and also made contact with the CRWQCB to discuss the alleged violations and provide them with pertinent information with regards to several of the items. That effort yielded some very favorable results in which the penalty amount was reduced from \$90,000 to \$60,000.

In a meeting with you on December 19, 2008 we went through the record of violations and as such agreed that CH2M HILL OMI would take responsibility for \$27,000 worth of penalties to resolve all compliance issues. This balanced approach to shared responsibility is another example of how partnering with CH2M HILL OMI provides risk reduction and a benefit to the City of Auburn.

If you have any questions or comments regarding the above propose please feel free to contact me at your convenience. 209-599-2955.

Sincerely,

Dennis E. Burrell
CH2M HILL OMI, Inc.

C: File



